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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/083,488	02/27/2002	Tetsushi Kobayashi	1341.1121	6513

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EXAMINER

ALLEN, WILLIAM J

ART UNIT PAPER NUMBER

3625

DATE MAILED: 01/12/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/083,488	Applicant(s) KOBAYASHI ET AL.	
	Examiner William J. Allen	Art Unit 3625	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11/18/2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 and 3-14 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 3-14 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

Applicant's arguments, see pages 8-9, filed 11/14/2005, with respect to claims 9 and 10 have been fully considered and are persuasive. The U.S.C. 101 rejection of claims 9 and 10 has been withdrawn.

Applicant's arguments filed 11/14/2005 have been fully considered but they are not persuasive.

Regarding claim 1, Applicant contests that since the shopper is left to discover that the merchandise is lacking in Pugliese, the system and method of Pugliese does not show "managing information regarding non-available products in each store, the non-available product being a product that is out of stock". The Examiner notes that in paragraph [0130], Pugliese includes a "Merchant Data Domain" in which is contained "all merchant relative data required by the ShopLive system". Additionally, those data sets contain merchant catalog information and individual store inventory information (i.e. whether items are in or *out of stock*). Furthermore, Pugliese states referring shoppers to other member merchants that carry the *out of stock* merchandise (see at least: [0042]). Pugliese thereby facilitates "managing information regarding non-available products in each store, the non-available product being a product that is out of stock".

In further regard to claim 1, Applicant contests that Pugliese does not show "when a purchaser selects a non-available product from the product catalog of one store, introducing the purchaser to another store in which the product selected by the

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purchaser is available". The Examiner directs Applicant to paragraphs [0009], [0010], [0017], [0042], and [0043]. Pugliese clearly shows referring a shopper to another member merchant that has a non-available product available for sale. Additionally, paragraphs [0009] and [0010] show a shopper accessing the ShopLive system from a user portal/terminal, thereby not restricting the user to walk-in shopping.

Regarding claims 3, 5-10, Applicant contests that claims 3-10 are allowable under the same rationale as claim 1. The Examiner notes that these arguments have been fully considered but are found to be unpersuasive based on the same rationale as claim 1.

Regarding claim 4, Applicant contests that Pugliese neither teaches, discloses, nor suggests "said authentication information of said customer is received without passing through said shop computer" as recited in claim 1. Hill does not either, and thus cannot make up for the deficiencies of Pugliese with respect to claim 4. The Examiner directs Applicant to paragraphs 101, 206, and 289 wherein Pugliese includes catalog and product updates. Furthermore, Hill discloses automatically updating catalog information based on operator instruction (i.e. purchaser trigger"). Hill's purpose for doing so is to ensure the catalog data sent to the operator is accurate. Whether the information being sent is in the form of a disk or over a computer network as in Pugliese, the ability to ensure that the sent data is accurate is the motivating factor. The combination is supported by the fact that Pugliese is showing the need for updating

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catalog information, and Hill is thereby supplying an automated process to update the information, thereby making it easier for customers to obtain accurate information and alleviating burden on manual updates from the merchant.

Regarding claims 11-14, claims 1-14 are newly added claims. Applicant's arguments with respect to claims 11-14 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

1. Claims 9, 10, 12, 13, and 14 are rejected under 35 U.S.C. 102(e) as being anticipated by Pugliese III et al. (US 2002/0072974).

Pugliese discloses a system, method, and computer program for managing information regarding products ([0130]; [0042]; [0017]). Relating to claims 9 and 13, Pugliese also discloses introducing a purchaser to a second store in which the product is available ([0017]; [0042]; [0043]). Relating to claims 10, 12, and 14, Pugliese further

discloses performing a shipment process from the second store that has the non-available product available ([0158]; [0296]; [0297]).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1, 3-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pugliese in view of Hill (5,761,649).

Pugliese et al. disclose a system, method, and computer program for enabling the efficient marketing and sale of goods and services via the Internet [0017, lines 1-5] for a number of products and multiple merchants. In the system, either the original merchant or the merchant the customer is referred to is selected to fill the order. Regarding claim 5, a system of referral is then further disclosed in the invention for products not available from the originally selected merchant [0017, lines 12-16]. In the event that the original merchant refers a new merchant, a commission is credited to the original merchant from the newly referred merchant [0017, lines 20-22]. Related to claims 7 and 8, Pugliese also discloses a means of managing shipping information for a customer [0015 lines 1-3] as well as a means to complete the transaction and handle order fulfillment. Order fulfillment includes order processing as well as the shipping and

handling of the product (i.e. carrying out a shipment process) [0158 lines 1-4]. Pugliese et al. disclose the invention as set forth above and further disclose a means of updating search information for users through the addition of user-selected parameters. The invention lacks, however, the aspect of automation as well as updating catalog/inventory information based on those operator instructions. Hill discloses a system that automatically updates catalog information based on an operator instruction. It should be noted that the term "purchaser trigger" is equivalent to "operator instruction". The invention of Hill provides the customer with an instantaneous distribution of all updated catalog data (col. 2, lines 3-5). Once a user has selected a catalog, the system logs onto the vendor's computer. The system then checks if any data needs to be updated (col.2, lines 9-14). It is reasonable to point out that the selection of a catalog constitutes an operator instruction, thus a purchaser trigger, and results in an automated updating process of catalog information. It would have been obvious to someone of ordinary skill in the art to design the system of Pugliese et al. with such a feature as in Hill because the accuracy of the data sent to the customer would no longer depend the distribution of updated disks (Hill, col. 1, lines 32-39) thus, making it easier for customers to obtain accurate information and suppliers to maintain it.

Regarding claim 11, the limitations set forth in claim 11 closely parallel those of claim 1. Claim 11 is thereby rejected under the same rationale.

3. Claims 7 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pugliese in view of Peterson et al. (US 2001/0011232).

Pugliese teaches the invention set forth above and further teaches managing inventory and stock shortage products ([0130]; [0042]). Pugliese, however, does not teach performing a shipment process to one store in which the product is not available from a store that has the product available. Peterson teaches a system facilitating shipment between a first and second vendor. If a first vendor locates a second vendor that has a part in stock, the first vendor can have the part transferred to the first location ([0002]; [0033]; [0137]). Relating to claim 8, Pugliese also teaches shipping the product from another store based on the information regarding stock shortage products ([0158]; [0296]; [0297]). It would have been obvious to one of ordinary skill in the art at the time of invention to have modified the invention of Pugliese to have included shipping between vendors as taught by Peterson in order to provide rapid transfer of items to a vendor with a stock shortage of a product ([0033]).

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- US 2003/0083947 to Hoffman discloses a system and method for governing a supply chain
- US 6,609,101 to Landvater discloses a system for inventory management and facilitating replenishment orders

- US 2003/0220841 to Maritzen discloses a merchant referral system

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to William J. Allen whose telephone number is (571) 272-1443. The examiner can normally be reached on 8:00 AM to 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wynn W. Coggins can be reached on (571) 272-7159. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

William J. Allen
Patent Examiner
January 8, 2006



Jeffrey A. Smith
Primary Examiner